Supreme Court, U.S.
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No. 96-1799

IN THE

Supreme Court of the United States

October Term, 1996

GEORGE F. REIDY, TONI E. REIDY,
TERRENCE M. REIDY, JOHN A. REIDY,
BRIAN J. REIDY, AND GEORGE M. REIDY,
Petitioners,

v.

TRAVELERS INSURANCE COMPANY,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

PETITIONERS' REPLY BRIEF

FREDERICK T. GOLDER
BERNSTEIN, GOLDER & MILLER, P.A.
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(617) 592-4000

Counsel for Petitioners

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TRAVELERS INSURANCE COMPANY,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
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FOR THE FIRST CIRCUIT

PETITIONERS' REPLY BRIEF

This Reply Brief is submitted in accordance with Rule 15(6) to address and dispute some of the points raised in Respondent's Brief in Opposition.

The United States Court of Appeals for the First Circuit must give "full faith and credit ... to the public acts, records, and judicial proceedings ..." of Massachusetts as required by Article IV, §1 of the United States Constitution.

The statement in Respondent's Brief at p. 2 "that Petitioner had still failed to comply with the procedural requirements for initiating a state civil action because Petitioner had neither waited ninety days before initiating the

civil action nor obtained approval of the state anti-discrimination agency to proceed before ninety days" is not a full or complete statement of Massachusetts law.

The Respondent reproduced a portion of G.L. c. 151B §9, but failed to include the section which states "... An aggrieved person may also seek temporary injunctive relief in the superior ... court ... at any time to prevent irreparable injury during the pendency of or prior to the filing of a complaint with the commission." (Emphasis supplied).

It is clear that the Petitioner, George F. Reidy ("Reidy"), did not have to wait 90 days, after "the filing of a complaint with the commission" before filing his lawsuit in the state superior court.

The holdings of the District Court, the Court of Appeals, and the statements contained in Respondent's Brief in Opposition regarding procedural issues are contrary to Massachusetts law.

The statement in Respondent's Brief at p. 2 concerning the finding that "The First Circuit Court did not reach the second procedural defect, finding that the record evidence made it clear that no timely charge of discrimination had been filed," is an incomplete statement of Massachusetts law. The facts as to the correspondence between the Massachusetts Commission Against Discrimination ("MCAD") and Petitioner's counsel are also incomplete.

Since this was a motion for summary judgment, under Massachusetts law, all facts and reasonable inferences had to be found in favor of Reidy.

By letter dated August 30, 1991, Reidy, through counsel, mailed a copy of a notarized charge of discrimination

outlining all of the discriminatory allegations. The MCAD sent back a form letter dated September 20, 1991, acknowledging receipt of the August 30, 1991 letter containing Reidy's notarized charge. That first form letter from the MCAD was received on September 24, 1991. Since Reidy had filed no letter outlining allegations of discrimination, and since the only statement outlining the statement of discrimination was stated on the notarized charge of discrimination, the only reasonable inference to be drawn is that the MCAD received the charge of discrimination on or about August 30, 1991.[1]

A person who sends a charge of discrimination with the MCAD has the right to immediately withdraw the charge in order to file a private lawsuit in accordance with General Laws Chapter 151B, §9. That is precisely what Reidy did through his counsel by letter dated September 26, 1991. Since that September 26, 1991, letter was sent by first-class mail and was not returned, the inference that must be drawn is that the MCAD received the letter. Following that September 26, 1991, letter requesting a withdrawal so that a private lawsuit could be brought, an exact duplicate of the letter dated September 20, 1991, from the MCAD was received on October 10, 1991.

The fact is that Reidy never wrote a letter to the MCAD, let alone a letter "describing Travelers' alleged discriminatory conduct." The only document ever sent to the MCAD "describing Travelers' discriminatory conduct" was the formal charge signed by Reidy and notarized and mailed by first class mail by Reidy's counsel.

Since the MCAD had never received "a letter from Reidy"

[1] Copies of all the correspondence between the MCAD and the Petitioner are attached to this Reply Brief as Appendix A, B, C, D, and E.

the only reasonable inference that can be drawn is that a formal MCAD charge was received by the MCAD and was either lost by them or not accepted by them. Since Reidy had already decided to pursue his claims of discrimination under General Laws c. 151B, § 9, the form correspondence received from the MCAD was of little or no concern. Reidy's intent was to present a timely charge to the MCAD as required by statute and then to immediately file a lawsuit in court, which is exactly what Reidy did.

"The statutory scheme rejects the administrative law principles of primary jurisdiction and exhaustion of administrative remedies. The filing of a §9 court action requires the MCAD to dismiss without prejudice any complaint pending before it and bars the plaintiff from pursuing the matter subsequently before the MCAD. G.L. c. 151B, §9." *Christo v. Edward G. Boyle Insurance Agency Inc.*, 402 Mass. 815, 817 (1988).

Reidy should not suffer because agents of the MCAD either lost or misplaced the formal charge of discrimination presented to the MCAD on or about August 30, 1991. Under Massachusetts law "proper mailing of a letter is 'prima facie evidence' of its receipt, which means that from proof of mailing alone the jury may but are not required to find receipt." *Commonwealth v. Crosscup*, 369 Mass. 228, 242 (1975).

In fact, the district court, in this case, held that "this Court is required to draw all reasonable inferences in favor of the plaintiff and therefore assumes that he did indeed file his charge with the MCAD on August 30, 1991." Contrary to the District Court holding, the Court of Appeals found as a fact that there was no receipt of a formal charge by the MCAD. The only evidence that is undisputed is that the formal charge was not filed, not that it was not received. It is not required

under Massachusetts law that it be filed, only that a formal charge be presented.

The case of *Andrews v. Arkwright Mutual Insurance Company*, 423 Mass. 1021 (1996) supports the Petitioner's position that the MCAD was at fault for losing, misplacing, or refusing "to accept a properly presented timely complaint." Id. at 1022. The undisputed and uncontroverted evidence is that Reidy did present a timely complaint to the MCAD. That was Reidy's only obligation under Massachusetts law. The fact that there is no evidence "to confirm its receipt by the MCAD" is irrelevant under Massachusetts law. If the MCAD refused "to accept a properly presented timely complaint," that would not bar a claim under General Laws c. 151B, §9. *Andrews v. Arkwright Mutual Insurance Company*, 423 Mass. 1021, 1022 (1996).

The Complaint of Reidy sworn to under oath and notarized states, in part, that "Reidy (in connection with his claim of discrimination under G.L. c. 151B) complied with all jurisdictional prerequisites prior to instituting this suit."

Weighing all of the evidence and reasonable inferences to be drawn in favor of the nonmoving party, the court had to find that a timely, notarized charge was presented to the MCAD by Reidy and the notarized charge was either lost or misplaced by the MCAD.

There are statements contained in Respondent's Brief that are disputed, material issues of fact. In opposition to summary judgment, Reidy filed an Opposition in accordance with Rule 56.1, consisting of eleven pages with six additional pages of attachments opposing summary judgment. Reidy also filed an affidavit in opposition to summary judgment consisting of fifteen pages with sixteen additional pages of attachments.

Contrary to the assertion in Respondent's Brief at p. 3 that "no record evidence, that the letter was ever sent," the September 20, 1991, letter sent by the MCAD, is conclusive evidence that Reidy did in fact mail a letter and a timely notarized charge to the MCAD.

The case cited at p.3 of Respondent's Brief, *Charland v. Muzi Motors, Inc.*, 417 Mass. 580 (1994), deals with different procedural issues that are not applicable to the essential issues in this case. The cases applicable to the procedural issues in this case are *Christo v. Edward G. Boyle Insurance Agency Inc.*, 402 Mass. 815 (1988) and *Andrews v. Arkwright Mutual Insurance Company*, 423 Mass. 1021, 1022 (1996).

The charge filed with the MCAD asserted claims for age and handicap discrimination. Before filing the complaint in the state court, Reidy signed a notarized charge of discrimination for age and handicap discrimination and presented that to the MCAD within six months of the discriminatory acts.[2]

As part of the Decision of the Department of Industrial Accidents, the judge found:

> While it is true that it is not uncommon for individuals to be overworked in their employment, I find that the employee's (Reidy) stressful work environment at Travelers was extreme ... the constant increase in cases, along with the chronic understaffing of his unit placed increased pressure upon the employee (Reidy) which significantly contributed to the stress related symptomatology he began to feel in 1983 and increasingly felt at the time of his departure ... a series of events ... together with the

> employer's (Travelers) inaction with regard to meeting those demands in the form of increased personnel, efficient computer programming and computer equipment significantly contributed to the employee's disability (AI. 127-128).

The judge also found that Reidy had some capacity to work from August 1989 to September 1991 (AI. 125). Instead of providing Reidy a reasonable accommodation between August 1989 and September 1991, Travelers took away Reidy's disability benefits. In a letter dated February 14, 1991, Reidy was told by Travelers that "it has come to our attention that you are currently working as courier ... we will be discontinuing your disability benefits, since you are working for a wage or profit." (AII. 158)[3] The letter also warns that "If you do not choose to return to your position after four weeks ... you will be terminated." (AII. 158).

The February 14, 1991, letter is clearly a sham, since at least as early as November 19, 1990, Travelers knew about Reidy's employment as a courier, knew that Reidy could not return to his original position, and knew that Reidy needed a reasonable accommodation. Reidy asserts in his affidavit that Travelers knew he was working as a courier as early as August 1989 (A. 104-106, portions of Reidy's Affidavit).[4]

In the November 19, 1990, Travelers Memorandum, Dr. Felsenfeld states, "Mr. Reidy works as a courier for a bank in Boston ... I had spoken to Jeanne Erickson this morning and I made her aware of the current situation ... a return to work

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[2] The charge for discrimination presented to the MCAD is attached to this Reply Brief as Appendix B.

[3] February 14, 1991, letter is attached to this Reply Brief as Appendix F.

[4] Reidy's Affidavit is attached to the Reply Brief as Appendix G.

was needed even if a suitable position had to be created for Mr. Reidy ..." (AII. 153).[5]

In the November 20, 1990, Travelers Memorandum, Dr. Felsenfeld states, "Mr. Reidy should not go back to his previous job as claims supervisor ..." (AII. 153).[6]

Travelers knowingly and wrongfully terminated Reidy's disability benefits against the terms of their own disability policy.

Subsequently, Travelers offered Reidy a position similar to the courier work he was performing for A&S Courier from August 1989 through September 1991. Reidy and his doctor agreed to accept this offer. However, Travelers reneged on that offer and offered Reidy one and only accommodation, a return to the Subrogation Unit, the unit that caused Reidy's "burnout." Reidy had not been in the Subrogation Unit since 1987.

Reidy was not even offered a position in the Auto Damage Unit, a position he held just prior to his going out on disability. The one and only position offered to Reidy was a position in the Subrogation Unit, a position the Travelers knew that Reidy could not perform. Travelers failed to provide Reidy a reasonable accommodation, as required by law and as set forth in their own written policies.

Travelers refused to engage in an interactive process, even though numerous requests were made. Travelers offered Reidy a "take it or leave it proposition."

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[5] The November 19, 1990, Travelers Memorandum is attached to this Reply Brief as Appendix H.

[6] The November 20, 1990, Travelers Memorandum is attached to this Reply Brief as Appendix I.

Contrary to statements contained in respondent's brief, p.6, par. 1, Reidy was not terminated because Honore knew that he did not have grounds or justification for that type of action. Honore's false allegations would have been exposed and his prior acts of discrimination would have been revealed. Reidy was handling three and a half times the recommended case load as determined in the workers' compensation decision (A1. 30-34).

In spite of their own doctor's opinion, Travelers offered Reidy one and only one position, a position Travelers knew Reidy could not do. By taking away his disability benefits and terminating his employment, Reidy deteriorated to the point that by September 1991, he was totally disabled (AI. 130).

Travelers caused Reidy to become totally disabled by not providing Reidy with a reasonable accommodation between August 1989, through September 1991, when he could have used it. By taking away his disability benefits and terminating his employment of more than twenty years, Travelers violated both Massachusetts law and the federal Americans with Disabilities Act (AI. 97, Reidy began his employment with Travelers in August 1967).

The assertion in Respondent's Brief at p. 11, "that this case presents no federal question," is not accurate.

Article IV of the Constitution requires that federal courts sitting in diversity cases give "full faith and credit ... to the public acts, records, and judicial proceedings ..."

If this case had been presented to a Massachusetts state court, summary judgment would have been denied. The procedural basis upon which the federal District Court

granted summary judgment, and the procedural basis upon which the Court of Appeals affirmed summary judgment, were inaccurate applications of Massachusetts state law.

Contrary to statements contained in Respondent's Brief, p.7, par. 2, Reidy had actual knowledge of discrimination against other older Travelers' employees (A1. 49-53).

Contrary to the statements contained in Respondent's Brief, p.7, par. 2, that Reidy never informed Travelers that he was working, Reidy informed Travelers on many occasions (A1. 55-70).

Contrary to the statements contained in Respondent's Brief, p.7, ft.4, Travelers knew and approved work under substantial guidelines. Travelers was to make periodic requests as to Reidy's status. Reidy provided background information to Dr. Parenty, a doctor he went to at Travelers' request, during his first visit. Subsequently, Dr. Parenty would tell Reidy about conversations he had with Dr. Felsenfeld, Travelers' in-house doctor.

When Traveler's stopped Reidy's disability benefits, Travelers stated that Reidy could not even work one hour for wage or profit as set forth in respondent's reply brief, p. 8, par. 3. Travelers now appears to have changed their position and agree with the definition stated to Reidy, that is, that Reidy could work and still receive disability payments, as long as the work he did was not substantial. See respondent's reply brief, p. 8, par. 1 (A1. 55 and 122).

Contrary to the statements contained in Respondent's Brief, p. 9, par 1., that the courier position proved too much for Reidy, and he quit that position shortly thereafter, Reidy became disabled as a result of Travelers' failure to provide a reasonable accommodation and their abrupt cessation of

disability benefits payments (A1. 105 and 106).

There are other instances of disputed statements contained in Repsondent's Brief. The most significant disputed facts involve Reidy's ability to work from August 1989 to September 1991, and Travelers' failure to provide Reidy a reasonable accommodation at that time. Reidy had work capacity from August 1989 to September 1991, but the cessation of disability payments coupled with his termination from employment at Travelers and their failure to provide Reidy a reasonable accommodation led to Reidy's total disability after September 1991.

The case cited in Respondent's Brief at p. 17, *August v. Offices Unlimited, Inc.*, 981 F.2d 576 (1st Cir. 1992), is not the appropriate case to rely on, not only because of the distinguishing facts, but also because of Massachusetts law. See *LaBonte v. Hutchins & Wheeler*, 424 Mass. 813 (1997).

Under Travelers Sick Leave Plan, as told to Reidy, Reidy could work part time as long as he did not earn more than the money he received from Travelers (AI. 104, ¶55 of Reidy's Affidavit). Travelers own documents support Reidy's understanding (AII. 159, 165).

Contrary to statements made in Respondent's Brief at p. 20-22, loss of consortium and nurture claims arising out of valid employment discrimination may be actionable. The case cited on p. 22, *Mouradian v. General Electric Co.*, 23 Mass. App. Ct., 503 N.E. 2d 1318 (1987), does not stand for the proposition that loss of consortium and nurture claims arising out of employment discrimination may not be brought. In *Mouradian*, there were no valid discrimination claims. There are no Massachusetts cases that hold that claims for loss of consortium and nurture are not available where there are valid discrimination claims under G.L. c. 151B.

Many of the facts stated in Respondent's Brief in Opposition are inaccurate and are disputed by Reidy.

Taking the evidence and the reasonable inferences in the light most favorable to Reidy, these are the established facts:[7]

1. Reidy began working for Travelers in August 1967 as an outside claims reprsentative.

2. From 1967 through 1987, Reidy always received above average annual appraisals.

3. Contrary to the statements contained in Respondent's Brief at p. 5, footnote 3, Reidy and his supervisor did not disagree "about the quality of his work" nor was Reidy placed on probation by his supervisor in 1978.

4. The administrative judge of the Department of Industrial Accidents ("DIA") found that Reidy began having symptoms in 1983. His symptoms became progressively worse (AI. 124).

5. Travelers was responsible for causing Reidy's disability according to the Decision of the DIA.

6. When Reidy was ready to return to work, Travelers failed to provide a reasonable accommodation or to engage in an interactive process. Travelers said take it or leave it.

7. When Reidy went out on disability, he was in the Auto Damage Unit, not the Subrogation Unit where Reidy became "burned Out."

8. When Reidy was ready to return to work, the one and only job offered to him was a position in the Subrogation

[7] Reidy's Affidavit attached as Appendix G.

Unit (He had not been in the Subrogation Unit since 1987).

9. Reidy was not offered a position in the Auto Damage Unit, the last place he worked prior to his disability.

10. Reidy provided evidence that he was replaced by a younger person when he was transferred to the Auto Damage Unit and replaced by a younger person in the Auto Dsamage Unit when he went out on disability in September 1988.

11. Even though Travelers knew that Reidy could not return to the Subrogation Unit but could return to other work, the job in Subrogation was the one and only position offered.

CONCLUSION

For the reasons cited in the Petition and in this Reply Brief and to prevent a miscarriage of justice, a writ of certiorari should issue to review the judgment and opinion of the United States Court of Appeals for the First Circuit, and to direct that Court to submit the questions concerning Massachusetts law to the Supreme Judicial Court for the Commonwealth of Massachusetts for their interpretation of Massachusetts law.

Respectfully submitted,

Frederick T. Golder
BBO NO: 198580
BERNSTEIN, GOLDER & MILLER, P.A.
230 Broadway, Suite 104
Lynnfield, MA 01940
(617) 592-4000
Counsel for Petitioners

APPENDIX A - LETTER FROM FREDERICK T. GOLDER TO MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION, DATED AUGUST 30, 1991.

Bernstein, Golder & Miller, P.A.
Attorneys at Law
Lynnfield Woods East
230 Broadway - Suite 104
Lynnfield, MA 01940-2383
Telecopier (617) 599-8980
617-592-4000

August 30, 1991

Massachusetts Commission Against Discrimination
1 Ashburton Place, 6th Floor
Boston, MA 02108

RE: George F. Reidy v. The Travelers Companies

Gentlepersons:

Enclosed please find Charge of Discrimination in the above.

Kindly file same and take appropriate action thereon.

After the employer has filed the petition statement, please send a withdrawal form, so that the same may be filed in court.

Thank you.

Yours very truly,

Frederick T. Golder

FTG:sl
Enclosure

APPENDIX B - CHARGE OF DISCRIMINATION SIGNED UNDER OATH BY GEORGE F. REIDY, SUBMITTED WITH THE LETTER DATED AUGUST 30, 1991

CHARGE OF DISCRIMINATION

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION and EEOC
(State or local agency, if any)

NAME (indicate Mr., Ms., or Mrs.)	TELEPHONE NUMBER (Indicate Area Code)
Mr. George F. Reidy	508-842-3514

STREET ADDRESS	CITY, STATE AND ZIP CODE	COUNTY
46 Browning Road	Shrewsbury, MA 01545	Worcester

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below)

NAME	NO. OF EMPLOYEES	TELEPHONE NUMBER (Indicate Area Code)
The Travelers Companies	in excess of 100	508-751-4200

STREET ADDRESS	CITY, STATE AND ZIP CODE
120 Front Street	Worcester, MA 01608

NAME	TELEPHONE NUMBER (Indicate Area Code)
STREET ADDRESS	CITY, STATE AND ZIP CODE

CAUSE OF DISCRIMINATION BASED ON (Check appropriate boxes)	DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (Month, day, year)
☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATL ORIGIN ☐ AGE ☐ RETALIATION ☐ OTHER (specify) Handicap	March 12, 1991

THE PARTICULARS ARE (if additional space is needed, attached extra sheet(s))

I began my employment with the Travelers Companies in August 1967. I was employed as a supervisor in the claims department. On or about September 6, 1988, as a result of a series of stressful events and harassment, I went out on disability, and have been unable to return since that time.

I was placed on disability benefits. When I went out on disability, the plan and policy to my knowledge and understanding was that I could receive disability

payments, as long as I did not receive income that exceeded the disability payments.

The people at Travelers knew that I was receiving some minor income that was less than my disability payments, because I informed them of that fact.

I was informed much later, almost two years later, that the plan or policy had been changed, and I was informed that since I was receiving any income, that I was not entitled to receive any benefits under the Sick Leave Plan.

I believe that the harassment was because of my age, and that they wanted to force me out.

As a result of all of the harassment, I now have a serious impairment that constitutes a handicap.

The company is now planning to take away my benefits.

I believe that this action has been taken against me because of my age (d.o.b.: July 20, 1941), and that this discrimination is ongoing, and that in addition, that they are discriminating against me because of my handicap as well.

I therefore charge the Travelers Companies with age and handicap discrimination in violation of General Laws c.151B and General Laws c. 93, §103.

NOTARY
/S/_____
Frederick T. Golder

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

/s/ George F. Reidy

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month, and year)
30 / 8 / 91

APPENDIX C - FORM LETTER TO MR. GEORGE F. REIDY FROM LUTHER E. ALLEN, JR. OF THE COMMONWEALTH OF MASSACHUSETTS AGAINST DISCRIMINATION, DATED SEPTEMBER 20, 1991.

The Commonwealth of Massachusetts
Commission Against Discrimination
1 Ashburton Place, Boston, MA 02108

Administrative Services: 727-3990
September 20, 1991

Mr. George F. Reidy
46 Browning Road
Shrewsbury, MA 01545

RE: Reidy v. The Travelers Companies

Thank you for your letter outlining your allegations of discrimination. This information may prove very useful in helping the Commission to understand your claim.

However, the Commission's rules require that you must file a formal complaint in order for us to have the power to act further on your claim. Before we can take your complaint and begin an investigation, a Commission representative needs to meet with you to discuss your situation further.

To discuss your case, come to the Commission's office at any time, Monday through Friday, from 9:00 a.m. to 4:30 p.m. Enclosed you will find a brochure that will explain to you how the procedures at the Commission work.

I look forward to meeting you, and hope that I can be of some service to you.

Sincerely,

Luther E. Allen, Jr.
Compliance Officer

cc: Frederick T. Golder, Esquire
Bernstein, Golder & Miller, P.A.
230 Broadway - Suite 103
Lynnfield, MA 01940-2383

APPENDIX D - LETTER FROM ATTORNEY GOLDER DATED SEPTEMBER 26, 1991, TO MR. LUTHER E. ALLEN, JR.

Bernstein, Golder & Miller, P.A.
Attorneys at Law
Lynnfield Woods East
230 Broadway - Suite 104
Lynnfield, MA 01940-2383
Telecopier (617) 599-8980
617-592-4000

September 26, 1991

Luther E. Allen, Jr.,
Compliance Officer
Massachusetts Commission
Against Discrimination
One Ashburton Place
Boston, MA 02108

RE: Reidy v. The Travelers Companies

Dear Mr. Allen:

I would appreciate your sending a copy of the Employer's Position Statement, and also a Withdrawal form, so that a private lawsuit may be brought.

Thank you.

Yours very truly,

Frederick T. Golder

FTG/sl

APPENDIX E - SECOND FORM LETTER TO MR. GEORGE F. REIDY FROM LUTHER E. ALLEN, JR. OF THE COMMONWEALTH OF MASSACHUSETTS AGAINST DISCRIMINATION, DATED SEPTEMBER 20, 1991, IDENTICAL TO FIRST FORM LETTER AND SENT AFTER ATTORNEY GOLDER'S SEPTEMBER 26, 1991 (APPENDIX D).

The Commonwealth of Massachusetts
Commission Against Discrimination
1 Ashburton Place, Boston, MA 02108

Administrative Services: 727-3990
September 20, 1991

Mr. George F. Reidy
46 Browning Road
Shrewsbury, MA 01545

RE: Reidy v. The Travelers Companies

Thank you for your letter outlining your allegations of discrimination. This information may prove very useful in helping the Commission to understand your claim.

However, the Commission's rules require that you must file a formal complaint in order for us to have the power to act further on your claim. Before we can take your complaint and begin an investigation, a Commission representative needs to meet with you to discuss your situation further.

To discuss your case, come to the Commission's office at any time, Monday through Friday, from 9:00 a.m. to 4:30 p.m. Enclosed you will find a brochure that will explain to you how the procedures at the Commission work.

I look forward to meeting you, and hope that I can be of some service to you.

Sincerely,

Luther E. Allen, Jr.
Compliance Officer

cc: Frederick T. Golder, Esquire
Bernstein, Golder & Miller, P.A.
230 Broadway - Suite 103
Lynnfield, MA 01940-2383

APPENDIX F - FEBRUARY 14, 1991, LETTER FROM JEANNE E. ERICKSON OF THE TRAVELERS TO GEORGE F. REIDY

The Travelers

Jeanne E. Erickson
Special Assistant
Personnel - Administration Dept.
Worcester Office

The Travelers Companies
People's Bank Building
120 Front Street
Worcester, MA 01608-1435

February 14, 1991

Mr. George F. Reidy
46 Browning Road
Shrewsbury, MA 01545

Dear George:

In a recent conversation I have had with you and in a discussion, Dr. Felsenfeld of our medical division had with your physician, Dr. Moretti, it has come to our attention that you are currently working as a courier for a bank in Boston. In light of this information I would like to bring to your attention page 64 of Planned Protection.

Effective March 4, 1991, we will be discontinuing your disability benefits, since you are working for wage or profit. Your position at the Travelers remains open and you will be considered on unpaid leave starting March 4, unless you return to work on that date.

We will be able to continue you on unpaid leave for up to four weeks. If you do not choose to return to your position after four weeks, it will be considered that you do not wish to return and you will be terminated.

Please contact me at 751-4201 if you have any questions or if you have additional information for consideration on your return to work.

Sincerely,

Jeanne E. Erickson
Corporate Human Resources
Home Office
1 Tower Square
Hartford, CT 06183

APPENDIX G - AFFIDAVIT OF GEORGE F. REIDY

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION
NO: 91-40154-NMG

****

GEORGE F. REIDY, ET AL., *
Plaintiff, *
*
v. *
*
TRAVELERS INSURANCE CO., *
Defendant. *

****

AFFIDAVIT OF GEORGE F. REIDY

1. My name is George F. Reidy. I am making these statements of my own personal knowledge and belief.

2. I began my employment with the Travelers Insurance Company in August, 1967, as an Outside Claims Representative.

3. As a result of my professional competence and performance, I was promoted to Assistant Supervisor of the P.I.P. Unit in 1971.

4. As a result of my professional competence and performance, I was promoted to Supervisor and Unit Head of the Subrogation Unit in 1973.

5. From 1967 through 1987, I always received above-average annual appraisals.

6. From 1967 through 1971, as an Outside Claim Representative, I was managed by Mr. Weikniak and Mr. Guinan. During that period of time I received excellent appraisals and excellent annual raises. From 1971 through 1973, when I was assistant supervisor of the P.I.P. Unit, I was managed by Mr. Smith and received above-average annual appraisals. From 1973 through 1985, while I was the unit head and supervisor of the Subrogation Unit, managed by Mr. Smith, I always received above annual appraisals, but most of my annual salary increases were only average at best.

7. While I was head of the Subrogation Department in 1973, until 1985, the department never missed the year end major goal, and the Subrogation Unit always had excellent results.

8. Some of my annual appraisals were changed after I signed them. I was receiving above average appraisals but was only receiving average or below average annual salary increases during the period from 1973 through 1985.

9. I have a copy of an appraisal change on my appraisal of June 4, 1984, where the appraisal was fraudulently altered after being signed.

10. My manager Mr. Smith would usually refuse to give me copies of my final annual appraisal, and the reason for that was that he changed the appraisals without my knowledge, after I signed them.

11. During the period 1975-1976, my manager, Mr. Smith wanted me to handle the monthly statistics for the Worcester Claim Department, and he gave me many documents from previous years to familiarize myself with the information. Months later, after I reviewed these volumes of documents, I questioned him on all the changes of results and the notations in the margins. He was changing many of the statistics to surpass goals for monthly and yearly totals. I confronted Mr. Smith about the alterations, and he told me that I would not be considered for the additional duties.

12. In July 1977, Manager Smith accused me of being involved in alleged phone threats he had received. Later in the day, he told me he had made a mistake and gone too far. It is my belief that he wanted me to lose my temper, have a physical confrontation, and then terminate me for assaulting him. I would have been fired only weeks before my tenth anniversary. When you have been with Travelers for ten years, you get additional rights and benefits. It amounts to a tenured position, and it then requires Travelers to go through a special process before you can be terminated.

13. In September 1978, Manager Smith attempted to force me to lower an evaluation of a subordinate supervisor, Thomas Holden. When I refused, Mr. Smith threatened me with retribution.

14. In November 1978, I and two other supervisors applied for an available and posted position in the Commercial Lines Department. These available positions were recommended by Travelers for career advancement. When I advised Mr. Smith of my plans, he stated that I could not apply for the position, because he was placing me on probation. There was absolutely no basis for

placing me on probation. I had an attorney write a letter to Travelers complaining about the treatment, and Travelers quickly remedied the situation and allowed me to apply for the position. I, of course, did not receive the position, and I continued to remain in the Claims Department under the supervision of Mr. Smith.

15. In the summer of 1981, during my evaluation review, Mr. Smith stated he would put me against the wall. When I asked him literally or figuratively he stated he would make me quit by improper and inadequate staffing of the Subrogation Unit.

16. In the summer of 1984, during my evaluation review, Mr. Smith repeated that he would make me quit by improper and understaffing of the Subrogation Unit.

17. In 1983, Travelers consolidated the Springfield, Massachusetts Office with the Worcester, Massachusetts Office. Our office received approximately another 40% more files. Mr. Smith gave us no instructions on how to implement this consolidation. When we requested assistance or instructions, he refused to provide any guidance, advice or assistance.

18. In 1984, Travelers converted all their files onto a computer system. When this new system was implemented, it eventually resulted in many major deficiencies. This entire conversion process was completed by Home Office, and the Control Units processed the manual files. The Subrogation Unit had no involvement n this conversion process.

19. While I was the unit head of the Subrogation Unit during 1973 through 1985, with Mr. Smith as the Manager, he would frequently do a number of things to harass me. He would not invite me to unit head meetings. If he was to change personnel in the Subrogation Department, he would not inform me until after it was done. He would wait until I went on vacation and then make the changes. I would return from my vacation to find personnel changes had been made in my absence. In the fall of 1985, Mr. Smith just walked out at lunch one day and never returned after many years of employment with Travelers and including 14 years in the Worcester office. No good-byes, no retirement parties, nothing.

20. In October 1985, John Honore was made the new Claims Manager. I informed Mr. Honore about the major problems in the Subrogation Department and about major understaffing. The unit head and claims representative should have had approximately 1200 files. In August of 1987, when I was demoted, there were only two people handling 3800 files. The

computer system malfunctioning. The diary system was inconsistent and working sporadically. The recovery figures were completely inaccurate.

21. In 1986, the unit recovered 2.7 million dollars with almost 2.2 million being collision recovery. We received credit for approximately $600,000.00 and allegedly missed our goal by $13,000.00. This was completely improper, since we clearly surpassed our goals. The figures were deliberately manipulated to make it look as if I missed the goals. The low and false figures provided to the Commonwealth of Massachusetts would greatly alter their rating figures. Therefore, the accurate high recovery figures were never submitted to the Commonwealth of Massachusetts. Millions of dollars were hidden from the Commonwealth of Massachusetts.

22. Mr. Honore completely ignored my warnings and completely ignored the problems I discussed with him.

23. Mr. Honore rarely reviewed collision, liability, or property files in the twenty-two months as a manager. He did review some workers' compensation files.

24. In January 1987, I returned from a family vacation in California. Mr. Honore accused me of not telling him I was going for two weeks for Christmas, to California. I had made the request weeks and weeks ago, and it had been approved weeks and weeks before. Mr. Honore had approved my vacation salary advance in writing weeks before, so he knew about my vacation plans.

25. Mr. Honore was extremely angry with me and said that, "It would have been better if I missed my goal by $250,000," rather than the approximate $10,000.00, which was actually not an accurate amount. I told Mr. Honore that I tried to recover as much money as possible, and that the recovery figures were wrong, and if they were tabulated correctly, I would have easily surpassed the goals. We discussed the goals, and he said that he would do anything, even lie, to achieve the goals set for us. I told him that I could make goal any time by falsifying figures, but why be dishonest.

26. I told him about computer problems, understaffing, and incorrect recovery figures. I asked him how many files I should have, and he answered, "How many do you have?" When I replied, approximately 1500 files, he said, "Then that's what you should have."

27. I advised Mr. Honore of problem areas with respect to proofs.

28. In late August 1987, I went away on vacation and when I returned I was

relieved of my duties as Unit Head Supervisor of the Subrogation Department in the Worcester Office, without any valid reason or explanation, and was assigned to the Auto Damage Unit performing the function of a claims representative. Although this in reality was a demotion, I did not lose my title or salary, but I did not receive raises I should have received.

29. I had received an above-average evaluation on June 7, 1987, and was supposed to receive my annual performance raise on my employment anniversary, August , 1987. However, I did not receive a raise, even though the so-called "alleged deficiencies" were not discovered until late August 1987. In light of the horrendous working conditions of understaffing, computer problems, and falsification of recovery amounts, there were relatively few deficiencies.

30. I told Mr. Honore that he was intentionally trying to set me up to be fired.

31. My Subrogation Assistant, Dick Wackell ("Wackell"), told me that upon my return from my 10 day vacation, that the day I went on vacation, Mr. Honore was all over the Subrogation Department, checking my files.

32. Mr. Honore sent me a letter in late August 1987, outlining the reasons for my transfer. He claimed that I took long lunches, long coffee breaks, eating at my desk, and having 150 files in which he thought the statute of limitations had run. Mr. Honore was incorrect with respect to most of his allegations.

33. In late August 1987, Mr. Honore transferred me to the Auto Damage Unit, the worst assignment in the Claims Office.

34. After I was demoted to the Auto Damage Unit in August 1987, Travelers added staff, appointed a 38 year old manager, gave him an Assistant Manager title, and added Subrogation from other offices. Workers in the Subrogation Unit now handle approximately 500 files per person, while we had 3800 files for two people.

35. I was assigned to be under the direct supervision of a supervisor by the name of Terry Stachura ("Stachura"), someone who was formerly a subordinate of mine in the Subrogation Department.

36. In early September 1987, Ms. Stachura stated to another Supervisor, Charlie Casey ("Casey"), that I should be placed on probation.

37. From the very beginning of my employment in the Auto Damage Unit, I received an entire and full case load, even though in my 18 years at the Claim Department, I had never directly handled this type of claim.

38. I received only minimal help from Ms. Stachura. She rarely initiated any advice or help regarding auto damage claim handling and mechanics of file handling. Even when I asked for help, I rarely received the help I needed.

39. Although I requested help, I received minimal help from Stachura and very rarely received any advice from her regarding auto damage claim handling, and the mechanics of handling the files.

40. When I went out on my regularly scheduled vacation or was out sick, no one, including Stachura, ever did any more than minimal work on my files. This meant that when I came back from vacation or a sick day, my work when I returned was substantially more than when I left.

41. During the period that I was assigned to the Auto Damage Unit, I received approximately 50-60 telephone calls each day, and of those calls, 5-10 calls would be in reference to files in the Subrogation Unit, which I formally used to handle.

42. Although I requested that the problems regarding responsibility codes be changed, no changes were ever made, and the problems and situations were never rectified.

43. In August 1988, Mr. Honore and Assistant Manager of the Auto Damage Unit, Harold Miller ("Miller"), discussed placing me on final warning.

44. On September 6, 1988, I went out on sick leave, because I could no longer continue to cope with the excessive demands.

45. Mr. Conway, Mr. Smith, and Mr. Honore intentionally and systematically allowed certain departments in the Worcester Claim Office to be severely understaffed. It was their intention that people would become so frustrated with the excessive caseloads and the deplorable and extremely stressful work environment, that they would quit.

46. However, if the employees stayed, their work load was so heavy and demanding, that they would be vulnerable to quality file critiques. The work load was so heavy and demanding, that as a necessity, the work product would be of a much lesser quality.

47. Four other Travelers' employees between the ages of 47 to 64, besides me, were exposed to varying degrees of harassment. Charles DeWaele was forced to retire because of the excessive job demands. Frank Foley was forced out because of excessive job demands and went to another insurance company.

Thomas Holden sued Travelers for age discrimination. Richard Wackell, because of the excessive work demands, was forced out and went to another insurance company.

48. These four individuals had many years of insurance experience and expertise, and the only way to decrease the quality of their work product was to give them intentionally excessive case loads.

49. The Travelers' Claim Department pressured older employees for the purpose of trying to force them out.

50. There was a younger liability unit head who was completely swamped with work, understaffed, and considerably behind in his work. This individual would come to work after more than 2 hour lunches, and at least twice a week, would be staggering drunk. Although Mr. Honore had full knowledge of this situation, no action was taken, and when I was forced out in 1988, this individual was still working at Travelers.

51. Travelers intentionally and systematically caused me to have excessive case loads, had understaffing, and created a stressful work environment designed to force me out.

52. The case loads given to me in the Subrogation and Auto Damage Units were extremely heavy and demanding.

53. Based upon my background and experience in the insurance industry, the work load given to me in the Subrogation and Auto Damage Units was so heavy and excessive, that no one ordinary person could perform the work in a completely successful manner.

54. Of the six former Travelers employees who were most directly related to setting me up to be either terminated or forced out of the company, these former Travelers employees have since been relieved of their duties, forced to retire, or voluntarily retired from Travelers.

(a) Mr. James Smith, my manager from 1971 through October 1985, was forced to retire under pressure.

(b) Kirby Conway, North East Regional, was demoted shortly after an incident involving me in 1988, and he was relieved of his duties a few months later.

(c) Worcester Manager, Mr. John Honore, who managed me from October 1985, to September 1988, was relieved of his duties under pressure.

(d) Terry Stachura, my immediate supervisor from September 1987 through September 1988, and was forced to retire.

(e) Mr. Harold Miller, my Assistant Manager of Auto Damage Unit from September 1987 through September 1988, was forced to retire.

(f) Jean Erickson, Personnel Manager for Travelers in the Worcester Office was relieved of her duties.

55. In May 1989, on two occasions, I spoke with Joan Lawson, Benefits Coordinator for Travelers in Hartford. She outlined to me the guidelines on how I was to proceed with alternative employment. I provided her with my work history and medical background. She advised me that "substantial" means that I could not earn in a year more than the money I received from Travelers. She even indicated to me that if I earned a little more, it would not be a problem. However, when I asked for a ball park figure, she said it would be best to stay at the same income level as benefits received from Travelers.

56. I was doing everything I could do to get back into the work force to eventually return to work at Travelers.

57. I was also told that I would receive yearly inquiries from Travelers regarding my earnings and cost of living factors after five years.

58. On August 1, 1989, I started working at A&S Delivery, Main Street, Ashland, MA working as a courier for $7.25 per hour, and was making approximately $300.00 per week.

59. Going to work as a courier was part of my therapy to get me back working, and eventually return to work at Travelers.

60. If Travelers allowed me to work as a courier, I probably would have been able to return to work at Travelers.

61. On September 15, 1989, I began treatment with a Travelers insurance doctor, psychiatrist, Dr. Roy Parenty, from Worcester. Dr. Parenty treated me with Prozac, Pamelor and Inderol. I suffered severe side effects, especially from Prozac. Although I felt much better in the morning, it altered my mind, so that I no longer felt brain dead, I had two automobile accidents and numerous near misses and near accidents. I fell asleep at the wheel. Prior to this, I had not had an automobile accident in approximately 25 years. I also had suicidal thoughts and tendencies with erratic and violent behavior from the Prozac. The Pamelor made me very irritable and tense.

62. In August 1990, Travelers denied their involvement with Dr. Parenty, after I had been treating with him for almost a year. I never paid Dr. Parenty for any of his treatments. Travelers paid all of his bills. Although Travelers tried to say that Dr. Parenty was my doctor, he was not my doctor, and there is no way I would have chosen him to be my doctor. He was their insurance doctor and had many very serious personal problems. He had many suits regarding abusing patients. I saw some newspaper clippings that support those allegations. Dr. Parenty told me that my disability checks would stop if I discontinued treating with him. On one occasion, he was about to write to Travelers home office to stop my disability checks because I mistakenly went the wrong day to an appointment with him. I provided much information regarding my work habits, medical problems, and background facts to Dr. Parenty who provided that information to Travelers.

63. Dr. Parenty knew that I was working at A&S Delivery from my very first visit, because I was wearing an A&S uniform. Dr. Parenty questioned me about my work, and all of my future visits with him were arranged around my work schedule.

64. Dr. Felsenfeld, Associate Medical Director at Travelers was in constant contact with Dr. Parenty regarding my progress and background facts that I was telling to Dr. Parenty. Dr. Parenty frequently referred to what he and Dr. Felsenfeld had discussed. From the very beginning, on September 15, 1989, Travelers knew I was working.

65. Dr. Parenty would ask me questions about James Smith, my former manager. Dr. Parenty had treated a family member of Mr. Smith. Dr. Parenty knew I did not get along with Mr. Smith. Given these facts, Dr. Parenty would be the last doctor I would pick if I had a choice.

66. Dr. Felsenfeld had advised Dr. Parenty who advised me that I would be going on welfare if I did not get better and get back to work.

67. I treated with Dr. Parenty on 9/15/89; 10/17/89; 11/3/89; 12/8/89; 1/12/90. Dr. Parenty was out sick, and then I had additional treatments on 5/11/90; 6/22/90; and 7/27/90.

68. On August 7, 1990, Dr. Felsenfeld, Associate Medical Director at Travelers at Hartford, advised me that I did not have to continue treating with Dr. Parenty.

69. Up until that time I was told that I had to treat with Dr. Parenty if I wanted to receive disability benefits.

70. On August 3, 1990, I spoke to Jean Erickson, Worcester Personnel Director for Travelers, and she was advised directly on the telephone regarding the particulars of my work at A&S Delivery. She told me that she was going to research Social Security benefits for me. She told me that she would write to me about Social Security Disability. She also discussed with me the mechanics for applying for total disability benefits, which would do away with yearly medical examinations.

71. On May 2, 1990, I received a letter from Ms. Erickson requesting a medical update from Dr. Moretti.

72. On November 5, 1990, Dr. Felsenfeld sent a letter to me advising me that I was expected to return to work on November 19, 1990, to perform light duty work per the letter of Dr. Moretti.

73. On November 12, 1990, I had a discussion with Dr. Moretti, and he advised me that I could do stress free work like the delivery or courier work I was performing for A&S Delivery. It was his opinion that I could do similar courier work for Travelers. However, he stated to me that he definitely did not want me to return to my former very stressful work, and he also told me that he would clarify all of this with Dr. Felsenfeld, the Travelers in-house doctor.

74. On February 14, 1991, I received a letter from Ms. Erickson stating recently that they learned I was working, and therefore effective March 4, 1991, my disability benefits would be discontinued, and I would have four (4) weeks of unpaid leave. The letter sent by Ms. Erickson was false, in that Travelers knew I had been working some 18 months earlier.

75. I was working as a courier as part of my therapy in order to get well enough to return to my regular job at Travelers or some comparable job.

76. On March 7, 1991, I had a three-way telephone conversation with Ms. Erickson, and Charles R. Shaw, of the Home Office Corporate Benefits regarding my disability benefits. It is my opinion that this phone conversation was taped by Mr. Shaw. I discussed with him the conversations I had with Ms. Lawson regarding her approval of my working. They continued to say that they just found out I was working. Mr. Shaw chided me several times telling me that I did not want to return to work. I told him that I did want to return to work, but medically, I could not return to work in the same stressful environment. I told him I could return to work, but as a courier. Mr. Shaw then said he would have Ms. Erickson send a letter outlining my return to work, and if I did not return to work, I would be terminated, on March 18, 1991.

77. Although Travelers allegedly claims that I was not entitled to be working while receiving disability benefits, this is clearly false because Travelers never asked for any reimbursement for the disability benefits payments made to me.

78. In the past, when Travelers made any overpayment of anything, no matter how small, Travelers would always request and receive the money back. They did not do that in this case.

79. I received disability benefits payments from September 1988 through March 25, 1991.

80. The only reason Travelers paid me disability benefits payments while I was working was to try and wait for the statute of limitations to expire regarding discrimination.

81. On March 12, 1991, I received a letter from Ms. Erickson advising me to return to work, or be terminated four (4) weeks after March 15, 1991, when my benefits would be discontinued.

82. On March 28, 1991, I received a letter from Ms. Erickson stating that my disability was discontinued on March 25, 1991, and that I would be terminated in four (4) weeks, if I did not return to work.

83. On April 13, 1991, I sent a letter to Ms. Erickson requesting unpaid leave until June 1, 1991.

84. On April 17, 1991, I spoke to Ms. Erickson and she said she had not received my letter but would check with Mr. Shaw and contact me.

85. On April 19, 1991, I received a telephone message from Ms. Erickson that she or Mr. Shaw could not make a decision on my extension, that the person who would be making the decision was unavailable. I then received a message on my answering machine that I had received an extension until June 1, 1991.

86. On May 22, 1991, I sent another letter requesting an extension until September 1, 1991.

87. On May 23, 1991, I spoke with Ms. Erickson and advised her of my request for an extension to September 1, 1991. She told me that she would contact the home office right away. I advised her that I had to know as soon as possible regarding my coverage. She said she would get back to me as soon as possible. I never did receive the first letter of extension that they said they would provide to me.

88. On May 24, 1991, I left a message for Ms. Erickson to contact me as soon as possible. I never did receive any written or verbal communication from Travelers regarding this second extension.

89. Although I requested from Travelers that I be reemployed as a courier or some other less stressful position, Travelers refused to provide any accommodation, and refused to allow me to return in any capacity, other than as a Claims Representative, the position which caused me to become disabled in the first place.

90. Although Travelers claims they terminated me on June 1, 1991, Travelers never gave me notice under COBRA benefits.

91. Jean Erickson, personnel director at Worcester, continuously lied to me about my benefits, would not tell me information I requested, like social security, working while receiving disability benefits, the alleged changes in the disability plan.

92. Ms. Erickson held a check for weeks that I should have received.

93. Ms. Erickson denied knowing I was working when she knew I was.

94. I have just recently received workers' compensation benefits. A copy of the decision granting me benefits is attached to this affidavit.

95. I have read the Travelers Statement of Undisputed Facts, and I dispute many of the facts.

96. In a memo from Travelers' Medical and Law Department dated 11/19/90 and 11/20/90, Dr. Felsenfald stated "a return to work was needed even if a suitable position had to be created for Mr. Reidy." "...some simple type of work that needed to be done such as distributing claim files. This would have a reasonable accommodation, but Travelers never did offer anything, other than going back to the job I got sick on.

97. After ten years with Travelers you become tenured, and you cannot be terminated without good cause. I know this because I was a supervisor. No one was terminated at Travelers after 10 years unless there was a good cause. Furthermore, when someone was terminated they would receive severance pay.

98. Travelers did not offer every opportunity to return to work. In fact, Travelers offered no reasonable opportunity to return to work.

99. There were changes in the Disability Plan, contrary to the statement of Travelers.

100. I filed a timely charge with the MCAD, that is, I filed a charge within six months after I was terminated with the MCAD, and it appears although they received the charge, MCAD lost it or misplaced it. Furthermore, the acts of Travelers in concealing their discrimination, led me to hold off on filing the charge of discrimination until 1991. Also, I was mentally impaired from September 1988, and still am mentally impaired.

101. The most serious discrimination occurred from 1981 on, particularly intentionally understaffing the Subrogation Unit to force me to quit.

102. I did not refuse to return to work. Travelers refused to provide a job I could do.

103. I was capable of working from August 1989 to September 1991, but Travelers refused to allow me to return to a suitable job.

104. There were jobs available at Travelers that I could have done. I was never offered one I could do.

105. The reason I could not work after September 1991 was that my condition deteriorated because I was terminated without any reason, and Travelers refused to provide a job I could do. The termination was devastating to me. Travelers caused me to be totally disabled to the present time.

106. I became totally disabled because of what Travelers did to me (they terminated my employment and all my benefits) and what they failed to do, namely, not providing me with a job I could do.

107. I needed to work in a less stressful environment, not a stress-free environment. Travelers refused to provide a less stressful environment.

108. I was never placed on probation.

109. Mr. Smith never disciplined me. He harassed me and threatened to get me to quit or force me out.

110. Mr. Honore told me Mr. Wackell should not be hired because he was too old and he had moved around too much.

111. I did not have a good working relationship with Mr. Honore from 1985-1987.

112. While Mr. Smith failed to force me out before he was forced out, he made my life and work at Travelers miserable, and when he left, the unit was sin terrible shape, and I was very sick by then and getting worse.

113. While Mr. Honore criticized me for taking long and excessive coffee breaks, long lunches, and making personal phone calls, this was not true, and Mr. Honore knew his allegations were false. During my employment with Travelers, I frequently worked after business hours and/or took work home to try and complete the horrendous work load at Travelers.

114. I was not terminated in 1987 because there was no valid reason or grounds. I was not a manager, I was a supervisor, and I did not receive a pay increase I should have received.

115. I was never given a reason for my transfer at the time. After my transfer, I requested a letter asking for the reasons. It was only then that Mr. Honore made up many reasons that were false and that he knew were false.

116. Harold Miller and Terry Stachura were not out to get me, they just refused to give me needed assistance because they were afraid of Mr. Honore.

117. Mr. Honore did not go by Travelers guidelines. He told me if my performance did not improve in 60 days, he would put me on final warning. Much more than 60 days went by with no input from Mr. Honore. I was working as hard as I could, and then he hit me with a bombshell that I was put on final warning and unless I improved within 60 days, I would be terminated. This was devastating to me.

118. I know of at least four instances where employees were discriminated against because of their age: Mr. Wackell; Mr. Holden; Mr. Foley; and Mr. DeWAele. I believe there were others. Very few employees in Worcester ever retired at a normal retirement age.

119. The actions of Travelers caused me to become disabled. If they gave me the support I needed, I would still be working, if not in the old job, in some job. I was working well at the courier job until Travelers fired me.

120. Dr. Parenty was not an independent medical examiner. He was specifically retained by Travelers to allegedly treat me. He prescribed medication the first day I saw him. I had no choice. He set up a treatment plan to follow. If I did not do this, my disability payments would stop, and I would lose all my employment benefits and would have been terminated from employment.

121. Travelers wanted to return me to the unit that caused my disability.

122. I was told that I could work and still receive disability benefits payments, as long as the money I received did not exceed what I received from Travelers, and it did not. That is how she defined "substantial" to me.

123. The courier position at A&S was not the problem. The problem was how Travelers treated me.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 3RD DAY OF August 1995.

/s/ George F. Reidy

APPENDIX H - THE TRAVELER'S MEMORANDUM DATED NOVEMBER 19, 1990, CONCERNING GEORGE F. REIDY

THE TRAVELERS MEMORANDUM

DATE: 11/19/90

TO: File

RE: George F. Reidy, SS# 025-36-2518

NOTE TO FILE

Mr. Gray Gagne (4-5098), called re: George Reidy. I told Mr. Gagne that I had spoken with Dr. Moretti and Jean Erickson and I told them that I had written to Mr. Reidy, requesting that he return to work on 11/1/90, to a light-duty position. I told him that Dr. Moretti had no objections in view of the facts that Mr. Reidy works as a courier for a bank in Boston. I told Mr. Gagne that I had spoken to Jean Erickson this morning and I had made her aware of the current situation. I told her that Mr. Reidy should return to light duty. He could half-time and half-pay or full time and full pay at light duty. I told Mr. Gagne that the committee on Long Term Disability and Attny. Richard Fortier were anxious to have Mr. Reidy returned to work. I told Mr. Gagne that light duty was a difficult term to define except where heavy lifting was involved, in which case there would be a work restriction on lifting. I told Mr. Gagne that a return to work was needed even if a suitable position had to be created for Mr. Reidy. I told Mr. Gagne that we have to be flexible about this situation and that we have to try to get Mr. Reidy to return to work for Travelers.

Herbert W. Felsenfeld, M.D.
HWF/tmg

APPENDIX I - THE TRAVELERS MEMORANDUM DATED NOVEMBER 19, 1990, CONCERNING GEORGE F. REIDY

11/20/90

NOTE TO FILE

I met with Mr. Fortier (Law Dept.), and I discussed the question of light duty in this case. he said that there was no legal definition. Mr. Reidy should not go back to his previous job as a claims supervisor since it was too stressful. He suggested that Jeanne Erickson and the people in the Worcester office should look for some simple type of work that needed to be done, such as distributing claim files. I told him of my conversations with Dr. Moretti and Jeanne Erickson. Dr. Moretti was under the impression that Mr. Reidy would work as a courier at Travelers. This impression must have been based upon the fact that he was performing this type of work for a bank in Boston. I told Mr. Fortier and Jeanne Erickson that I had not suggested that such a position was available at Travelers.

I told Jeanne Erickson that Mr. Fortier and Mr. Gagne were available for consultation in this matter. I told her that Mr. Reidy could work one-half time at one-half pay or full time at full pay in a light duty job, depending on his preference. I told her that it would be very advantageous to have Dr. Moretti's approval of the job description once it had been (con't. 11/20/90)

RE: George F. Reidy
Job at the Present.

Once the job had been outlined and approved by Dr. Moretti, Mr. Reidy should be given a copy of the job description and notified of a specific return to work date.

Herbert W. Felsenfeld, M.D.
Hwf/tmg